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FOUNDATION FOR THE ADVANCEMENT OF MILITARY MEDICINE

MARCH 31, 1983.—Ordered to be printed
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Mr. TOWER, from the Committee on Armed Services, submitted the following

REPORT

[To accompany S. 653]

The Committee on Armed Services, to which was referred the bill (S. 653) to amend title 10, United States Code, to establish the Foundation for the Advancement of Military Medicine, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

COMMITTEE AMENDMENT IN THE FORM OF A SUBSTITUTE

The Committee amended the bill by striking all after the enacting clause and substituting a new bill reflecting changes recommended by the Committee.

PURPOSE OF THE BILL

S. 653 would establish the Foundation for the Advancement of Military Medicine and give the Board of Regents of the Uniformed Services University of the Health Sciences the authority to interact with this Foundation and, in certain circumstances, with other non-profit entities.

BACKGROUND AND SUMMARY OF COMMITTEE RECOMMENDATION

The Uniformed Services University of the Health Sciences was established by Congress in 1972 to train medical officers for the uniformed services and to provide programs in continuing medical education for military members of the health professions. Its students are active duty commissioned officers in the Army, Navy, Air Force or Public Health Service. As students, they pay no tuition. However, graduates must fulfill an active duty service obligation of at least seven years following internship and residency. The University's primary objective is to provide comprehensive, high quality education for students motivated to medical careers in the uniformed services.

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It has always been the intent of Congress that the programs at the Uniformed Services University should be highly innovative and at the forefront of medical teaching, research and care. But like other academic institutions, the activities of the University are constrained by the availability of resources. Therefore, to contribute to this goal of excellence, the Committee recommends establishment of the Foundation for the Advancement of Military Medicine.

The Foundation will be an educational and research organization patterned after the American Registry of Pathology that was established by Congress in 1976 to support the Armed Forces Institute of Pathology. The Foundation will be a nonprofit, charitable corporation which will receive gifts, grants and legacies on behalf of both itself and the Uniformed Services University. It will seek funds on the same terms and from the same sources as all other private foundations, including support from individuals, universities, businesses, foundations and through contracts and grants.

The Foundation will participate in cooperative medical research and education projects with the Uniformed Services University. The Committee intends that medical research projects carried out by the Foundation could include applied and clinical research, including where necessary as an adjunct to such research, direct patient care. By channeling private resources to the Uniformed Services University, the Foundation will help the University and military medicine maintain advanced scientific teaching and research. In addition, the Foundation will support the growing international role of the University in its cooperative research in other countries and in its programs with medical schools training military officers both here and abroad.

Overseeing the activities of the Foundation will be a Council of Directors composed of the Chairmen and Ranking Minority Members of the House and Senate Armed Services Committees, who will be ex officio members; the Dean of the Uniformed Services University, who will also be an ex officio member; and four other members who will be appointed by the ex officio members to serve four-year terms. The composition of this Council of Directors ensures that the Congress will remain involved in the purposes, direction and supervision of the Foundation.

S. 653 also authorizes the Board of Regents of the Uniformed Services University to interact with the Foundation for the Advancement of Military Medicine and, in certain circumstances, with other nonprofit entities. The bill allows the Board of Regents to contract with the Foundation and other nonprofit entities for cooperative enterprises in medical research, consultation and education; to make available to the Foundation space, facilities, equipment and support within the University to accomplish mutual cooperative enterprises; to accept gifts or legacies to further the efforts of the University; to enter into agreements with the Foundation or other nonprofit entities for the services of scientists or other personnel to enhance the activities of the University; and to use guest scholars and the services of volunteers.

The bill as reported also includes a provision ensuring that the Congress is kept informed of the extent to which the Board of Regents of the Uniformed Services University makes space, personnel, equipment or other support available to the Foundation and the extent to which

the Board enters into agreements with the Foundation or any other nonprofit entity so that personnel outside the University can participate in University activities.

At least annually, and more often if desirable, the Council of Directors of the Foundation will submit a report of its operations, activities and accomplishments to the President of the United States.

The Committee believes that the Foundation for the Advancement of Military Medicine will make an important contribution to the unique role of the Uniformed Services University. The Foundation will allow interested members of the public, without government expenditures, to become involved in medical advances for the uniformed services through donations and legacies which will support important and innovative research, teaching and services in military medicine. The Foundation will also make a useful contribution toward enhancing cooperation and communication between the military and civilian medical communities.

Section-By-Section Analysis of S. 653

The purpose of this bill, which contains three sections, is (a) to establish the Foundation for the Advancement of Military Medicine ("the Foundation") and (b) to authorize the Board of Regents of the Uniformed Services University of the Health Sciences ("the Board") to interact with the Foundation and, in certain circumstances, with other nonprofit entities.

Section 1 of the bill provides for a short title, the Foundation for the Advancement of Military Medicine Act of 1983. Section 2 amends chapter 7 of title 10, United States Code, which deals with Boards, Councils and Committees in the Defense Department, by adding a new section 178. Section 3 amends chapter 104 of title 10, which deals with the Uniformed Services University of the Health Sciences, by adding a new subsection to section 2113.

Section 2 of the bill adds a new section (section 178) to the end of chapter 7 of title 10, United States Code. Section 178 has nine subsections, (a) through (i).

Subsection (a) of section 178 authorizes the establishment of a nonprofit corporation to be known as the Foundation for the Advancement of Military Medicine. The corporation shall not for any purpose be an agency or instrumentality of the United States Government. The Foundation will be subject to the provisions of section 178 of title 10, United States Code, and, to the extent not inconsistent with this section, the Corporations and Association Articles of the State of Maryland.

Subsection (b) of section 178 sets forth the purposes of the Foundation, which include: (1) carrying out medical research and education projects under cooperative arrangements with the Uniformed Services University of the Health Sciences, (2) serving as a focus for the interchange between military and civilian medical personnel; and (3) encouraging the participation of the medical, dental, nursing, veterinary, and other biomedical sciences in the work of the Foundation for the mutual benefit of military and civilian medicine. The Committee intends that medical research projects carried out by the

Foundation could include applied and clinical research, including, where necessary as an adjunct to such research, direct patient care.

Subsection (c) deals with a Council of Directors for the Foundation.

Paragraph (1) of subsection 178(c) requires that the Foundation have a Council of Directors ("the Council") composed of the following nine members: (A) the Chairmen and Ranking Minority Members of the Committees on Armed Services of the House of Representatives and the Senate, as ex officio members of the Council, (B) the Dean of the Uniformed Services University of the Health Sciences, also as an ex officio member of the Council, and (C) four other members appointed by these five ex officio members of the Council.

Paragraph (2) of subsection 178(c) requires that the term of office of the four members of the Council appointed by the ex officio members of the Council shall be four years, with the following two exceptions: (A) any person appointed to the Council to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall only be appointed for the remainder of such term, and (B) the terms of office of the first non-ex officio members of the Council shall expire, as designated by the ex officio members of the Council at the time of the appointment, two at the end of two years and two at the end of four years. This provision precludes the simultaneous expiration of the terms of all four non-ex officio members of the Council.

Paragraph (3) of subsection 178(c) requires the Council to elect a chairman from among its nine members.

Subsection (d) of section 178 requires the Foundation to have an Executive Director appointed by the Council who serves at the pleasure of the Council. The Executive Director will be responsible for the day-to-day operations of the Foundation and will have the specific duties and responsibilities prescribed by the Council. The salary of the Executive Director shall be set by the Council.

Subsection (e) of section 178 requires the initial members of the Council to serve as incorporators of the Foundation and to take whatever actions are necessary to establish the Foundation under the Corporations and Associations Articles of the State of Maryland.

Subsection (f) of section 178 provides that any vacancy that occurs in the membership of the Council shall not affect its powers. Such a vacancy shall be filled in the same manner in which the original appointment or designation was made.

Subsection (g) of section 178 contains seven paragraphs authorizing the Foundation to carry out different functions:

Paragraph (1) of subsection 178(g) authorizes the Foundation to enter into contracts with the Uniformed Services University of the Health Sciences to carry out cooperative enterprises in medical research, medical consultation, and medical education, including contracts for provision of any personnel and services necessary to carry out such cooperative enterprises.

Paragraph (2) of subsection 178(g) authorizes the Foundation to enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material.

Paragraph (3) of subsection 178(g) authorizes the Foundation to take any action necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees.

Paragraph (4) of subsection 178(g) authorizes the Foundation to accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation.

Paragraph (5) of subsection 178(g) authorizes the Foundation to enter into contracts with individuals, public or private organizations, professional societies, and government agencies for the purpose of carrying out the functions of the Foundation.

Paragraph (6) of subsection 178(g) authorizes the Foundation to enter into such other contracts, leases, cooperative agreements, and transactions as the Executive Director considers appropriate to conduct the activities of the Foundation.

Paragraph (7) of subsection 178(g) authorizes the Foundation to charge such fees for professional services furnished by the Foundation as the Executive Director determines reasonable and appropriate.

Subsection (h) of section 178 prohibits full-time or part-time employees of the Federal Government from serving as full-time or part-time employees of the Foundation. It also bars compensation of Foundation employees from Federal funds.

Subsection (i) of section 178 requires the Council to transmit at least annually a report on the operations, activities, and achievements of the Foundation to the President of the United States.

Section 3 of the bill amends section 2113 of chapter 104 of title 10, United States Code, dealing with the Board of Regents of the Uniformed Services University of the Health Sciences ("the Board"), by adding a new subsection (j) at the end of the section.

Paragraph (1) of the new subsection 2113(j) authorizes the Board to interact with the Foundation and, in certain circumstances, with other nonprofit entities. In certain cases, the authority of the Board is limited by the requirement to notify the Congress contained in paragraph (2) of the new subsection (j), discussed below.

Under paragraph (1) the Board is authorized (A) to enter into contracts with the Foundation for the Advancement of Military Medicine established under section 178 of this title, or with any other nonprofit entity, for the purpose of carrying out cooperative enterprises in medical research, medical consultation, and medical education; (B) to make available to the Foundation for the Advancement of Military Medicine, on such terms and conditions as the Board determines appropriate, such space, facilities, equipment, and support services within the University as the Board considers necessary to accomplish cooperative enterprises undertaken by the Foundation and University; (C) to enter into contracts with the Foundation under which the Board may furnish the services of any professional, technical, or clerical personnel necessary to fulfill cooperative enterprises undertaken by the Foundation and the University; (D) to accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property made to the University, including any gift, devise, or bequest for the support of an academic chair, teaching, research, or demonstration project; (E) to enter into agreements with the Foundation for the Advancement of Military Medicine, or with any other nonprofit entity, under which scientists or other personnel of the Foundation or other entity may be utilized by the University for the purpose of enhancing the activities of the University in education, research, and technological

applications of knowledge; and (F) to accept the voluntary services of guest scholars and other persons.

Paragraph (2) of the new subsection 2113(j) requires a report to the Congress and a subsequent waiting period before the Board can enter into certain agreements authorized by paragraph (1). The purpose of this reporting requirement is to ensure that the Congress is kept informed of the extent to which the Board of Regents of the Uniformed Services University makes space, personnel, equipment or other support available to the Foundation and the extent to which the Board enters into agreements with the Foundation or any other nonprofit entity for personnel outside the University to participate in University activities.

Under this paragraph the Board must notify the Committees on Armed Services of the Senate and House of Representatives in writing before the Board enters into any agreements or contracts under which the Board agrees to provide any space, facility, equipment, support service, or personnel to the Foundation. A similar notification is required before the Board reaches an agreement with the Foundation, or any other nonprofit entity, concerning the use of scientists or other personnel of the Foundation or the nonprofit entity by the Uniformed Services University of Health Sciences. This notification must include a description of the proposed arrangement, contract, or agreement, as the case may be, and, in the case of a proposed agreement concerning scientists or other personnel of the Foundation or a nonprofit entity, any appointments proposed to be made under the authority included in paragraph 4 of the new subsection (j), discussed below. After the required notice is given, the Board must wait 15 days from the date on which the notice was received by the Committees before entering into the particular agreement or contract which necessitated the notice.

Paragraph (3) of the new subsection 2113(j) prohibits the Board from entering into any contract with the Foundation for the Advancement of Military Medicine, or with any other entity, if the contract would obligate the University to make outlays in advance of the enactment of budget authority for such outlays.

Paragraph (4) of the new subsection 2113(j) allows scientists or other medical personnel utilized by the University under an agreement authorized by paragraph (1) to be appointed to any position within the University and to perform such duties within the University as the Board may approve.

Paragraph (5) of the new subsection 2113(j) provides certain limited protections to persons who provide voluntary services to the Uniformed Services University under the authority granted in paragraph (1). The section provides that such persons shall be considered to be employees of the Federal Government for the purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and for the purposes of chapter 171 of title 28, relating to tort claims. This paragraph also makes it clear, however, that such persons who are not otherwise employed by the Federal Government shall not be considered Federal employees for any other purpose by reason of the provision of such voluntary services.

DEPARTMENTAL RECOMMENDATION

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., March 14, 1983.

Hon. JOHN TOWER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to S. 653, 98th Congress, a bill "To establish the Foundation for the Advancement of Military Medicine, and for other purposes."

PURPOSE OF THE LEGISLATION

The bill would establish a nonprofit, charitable, educational, and research foundation supporting the purposes of the Uniformed Services University. The bill provides for the public's involvement in aiding the University through the Foundation, and for an additional mechanism for cooperation between civilian and military medicine. The Foundation would receive private support, and this support would bring resources to the University. Thus, without additional governmental expenditures, the University's teaching, research, and services would be furthered.

The Foundation would, as proposed, be a separate corporate entity, to receive gifts, grants, legacies, and other funds. Other corporations and entities, such as the American Cancer Society, state and local governments, foundations and universities, as well as individuals, could sponsor activities at the Foundation to support and advance military medicine.

The legislation uses as its model the successful American Registry of Pathology which supports the Defense Department's Armed Forces Institute of Pathology. The Registry is a nonprofit corporation with similar purposes and functions.

COST AND BUDGET DATA

Enactment of S. 653 will not result in any increased budgetary requirements to the Department of Defense.

For the reasons indicated above, the Department of Defense strongly supports the establishment of the Foundation and recommends early enactment of S. 653.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to this report.

Sincerely,

WILLIAM H. TAFT IV.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES,
Bethesda, Md., March 10, 1983.

Hon. JOHN TOWER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to respond to your request regarding my position on the bill "To Establish the Foundation for the Advancement of Military Medicine, and for other purposes."

The University welcomes the legislation and looks to it as an important source of support for University programs and for the future of military medicine.

The Foundation would provide a path for civilian and military cooperation in University projects, teaching, research, and services. It will allow the University to receive gifts that honor distinguished citizens and that aid our functions. Like other foundations that support public medical schools, such as the University of California San Francisco Foundation and the foundation supporting the Armed Forces Institute of Pathology, the American Registry of Pathology, the Foundation will provide a mechanism to support the goals and programs of the University without additional governmental expenditures.

The Foundation, like its counterparts, will receive grants, gifts, and legacies, and will enhance the University's contributions to the advancement of military medicine.

The Board of Regents of the University, at their meeting on January 17, 1983, expressed their enthusiasm for the Foundation and wish me to communicate this to you.

Sincerely,

JAY P. SANFORD, M.D.,
President and Dean.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 22, 1983.

Hon. JOHN TOWER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 653, a bill to establish the Foundation for the Advancement of Military Medicine, as ordered reported by the Senate Committee on Armed Services on March 22, 1983.

Based on this review, it is expected that no additional cost to the government would be incurred as a result of enactment of this legislation.

Enactment of this bill would not affect the budgets of state and local governments.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director.)

COMMITTEE ACTION

On March 22, 1983, the Committee on Armed Services voted unanimously to report S. 653 as amended.

Regulatory Impact

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be included in the report on such bill. The committee finds that in the case of S. 653 there is no regulatory impact.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law proposed to be made by the bill are shown as follows: Existing law to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman.

TITLE 10, UNITED STATES CODE

Subtitle A—General Military Law

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PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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CHAPTER 7.—BOARDS, COUNCILS, AND COMMITTEES

Sec.
171. Armed Forces Policy Council.
172. Ammunition storage board.
173. Advisory personnel.
174. Advisory personnel: research and development.
175. Reserve Forces Policy Board.
176. Armed Forces Institute of Pathology.
177. American Registry of Pathology.
178. Foundation for the Advancement of Military Medicine.

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§ 178. Foundation for the Advancement of Military Medicine

(a) There is authorized to be established a nonprofit corporation to be known as the Foundation for the Advancement of Military Medicine (hereinafter in this section referred to as the "Foundation") which shall not for any purpose be an agency or instrumentality of the United States Government. The Foundation shall be subject to the provisions of this section and, to the extent not inconsistent with this section, the Corporations and Associations Articles of the State of Maryland.

(b) It shall be the purpose of the Foundation (1) to carry out medical research and education projects under cooperative arrangements with the Uniformed Services University of the Health Sciences, (2) to serve as a focus for the interchange between military and civilian medical personnel, and (3) to encourage the participation of the medical, dental, nursing, veterinary, and other biomedical sciences in the work of the Foundation for the mutual benefit of military and civilian medicine.

(c)(1) The Foundation shall have a Council of Directors (hereinafter in this section referred to as the "Council") composed of—

(A) the Chairmen and ranking minority members of the Committees on Armed Services of the Senate and the House of Representatives, who shall be ex officio members,

(B) the Dean of the Uniformed Services University of the Health Sciences, who shall be an ex officio member, and

(C) four members appointed by the ex officio members of the Council designated in clauses (A) and (B).

(2) The term of office of each member of the Council appointed under clause (C) of paragraph (1) shall be four years, except that—

(A) any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) the terms of office of members first taking office shall expire, as designated by the ex officio members of the Council at the time of the appointment, two at the end of two years and two at the end of four years.

(3) The Council shall elect a chairman from among its members.

(d)(1) The Foundation shall have an Executive Director who shall be appointed by the Council and shall serve at the pleasure of the Council. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Council shall prescribe.

(2) The rate of compensation of the Executive Director shall be fixed by the Council.

(e) The initial members of the Council shall serve as incorporators and take whatever actions as are necessary to establish under the Corporations and Associations Articles of the State of Maryland the corporation authorized by subsection (a).

(f) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original designation or appointment was made.

(g) In order to carry out the purposes of this section, the Foundation is authorized to—

(1) enter into contracts with the Uniformed Services University of the Health Sciences for the purpose of carrying out cooperative enterprises in medical research, medical consultation, and medical education, including contracts for provision of such personnel and services as may be necessary to carry out such cooperative enterprises;

(2) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

(3) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

(4) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

(5) enter into contracts with individuals, public or private organizations, professional societies, and government agencies for the purpose of carrying out the functions of the Foundation;

(6) enter into such other contracts, leases, cooperative agree-

ments, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation; and

(7) charge such fees for professional services furnished by the Foundation as the Executive Director determines reasonable and appropriate.

(h)(1) A person who is a full-time or part-time employee of the Foundation may not be an employee (full-time or part-time) of the Federal Government.

(2) No part of the compensation paid to an employee of the Foundation may be paid from Federal funds.

(i) The Council shall transmit to the President annually, and at such other times as the Council considers desirable, a report on the operations, activities, and accomplishments of the Foundation.

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PART III—TRAINING

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CHAPTER 104.—UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

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§ 2113. Board of Regents

(a) * * *

(j)(1) The Board also is authorized—

(A) to enter into contracts with the Foundation for the Advancement of Military Medicine established under section 178 of this title, or with any other nonprofit entity, for the purpose of carrying out cooperative enterprises in medical research, medical consultation, and medical education;

(B) subject to paragraph (2), to make available to the Foundation for the Advancement of Military Medicine, on such terms and conditions as the Board determines appropriate, such space, facilities, equipment, and support services within the University as the Board considers necessary to accomplish cooperative enterprises undertaken by such foundation and the University;

(C) subject to paragraph (2), to enter into contracts with the Foundation for the Advancement of Military Medicine under which the Board may furnish the services of such professional, technical, or clerical personnel as may be necessary to fulfill cooperative enterprises undertaken by such foundation and the University;

(D) to accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property made to the University, including any gift, devise, or bequest for the support of an academic chair, teaching, research, or demonstration project;

(E) subject to paragraph (2), to enter into agreements with the Foundation for the Advancement of Military Medicine, or with any other nonprofit entity, under which scientists or other personnel of the Foundation or other entity may be utilized by the University for the purpose of enhancing the activities of the

University in education, research, and technological applications of knowledge; and

(F) to accept the voluntary services of guest scholars and other persons.

(2) The authority of the Board under clauses (B), (C), and (E) of paragraph (1) may be exercised only if—

(A) before the Board enters into any arrangement under which any space, facility, equipment, or support service is made available under clause (B) of such paragraph, before the Board enters into any contract under clause (C) of such paragraph, or before the Board enters into any agreement under clause (E) of such paragraph, it notifies the Committees on Armed Services of the Senate and the House of Representatives in writing of the proposed arrangement, contract, or agreement, as the case may be, the terms and conditions thereof, and, in the case of a proposed agreement under clause (E) of paragraph (1), any appointments proposed to be made under the authority of paragraph (4) in connection with the agreement, and

(B) a period of fifteen days has elapsed following the date on which the notice received by such committees.

(3) The Board may not enter into any contract with the Foundation for the Advancement of Military Medicine, or with any other entity, if the contract would obligate the University to make outlays in advance of the enactment of budget authority for such outlays.

(4) Scientists or other medical personnel utilized by the University under an agreement described in clause (E) of paragraph (1) may be appointed to any position within the University and may be permitted to perform such duties within the University as the Board may approve.

(5) A person who provides voluntary services under the authority of clause (F) of paragraph (1) shall be considered to be an employee of the Federal Government for the purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and to be an employee of the Federal Government for the purposes of chapter 171 of title 28, relating to tort claims. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such services.

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